

TEXAS CRIMINAL DEFENSE GUIDE E-BOOK



NEAL DAVIS

LAW FIRM, PLLC

A photograph of a courtroom scene. In the foreground, a man in an orange jumpsuit is seen from behind, with his hands in handcuffs. He is standing at a wooden bench. To his right, a man in a dark blue suit is also seen from behind, leaning over the bench. In the background, a woman with blonde hair is seated at a desk, looking towards the man in the orange jumpsuit. The text 'CHILD SEX OFFENSES' is overlaid in large, white, bold, sans-serif capital letters across the center of the image.

**CHILD SEX OFFENSES**

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# CHILD SEX OFFENSES

## WHAT IS A SEX OFFENSE?

The term “sex offense” covers a variety of more specific crimes. For example, indecency with a child, improper student-teacher relationships, and aggravated sexual assault of a child are all considered types of sex offenses.

The legal system in both the state of Texas and the United States is harsh toward individuals convicted of sex offenses, and punishment is often severe. Some sex offenses can carry prison sentences of 25 years to life without parole. If released, those convicted may also be required to register as sex offenders, and be prevented from living close to schools and spending time near children.

## CHOOSING A DEFENSE ATTORNEY

If you’ve been charged with a sexual offense, it is crucial to consult a qualified attorney as soon as possible to investigate and prepare your defense. Speaking with police before consulting a defense lawyer could seriously damage your case. If you would like a free consultation to discuss your situation with qualified **sex crime defense attorney**, please contact [Neal Davis](#) as soon as possible.

# CHILD SEX OFFENSES: CHARGES

## INDECENCY WITH A CHILD

It is a crime for any person to engage in sexual contact with a child. It is also a crime for a person to expose himself to a child, or to cause the child to expose himself or herself, for the purpose of sexual gratification. A “child” is defined as any person younger than 17 years old.

If sexual penetration is a part of the accusation, the charges will exceed the “Indecency” classification and punishments are more severe. (See Sexual Assault of a Child and Aggravated Sexual Assault of a Child.)

Continue reading to learn more about [indecency with a child by exposure](#) and [indecency with a child by contact](#).

### LAW

Texas Penal Code [Chapter 21.11](#) states:

“(a) A person commits an offense if, with a child younger than 17 years and not the person’s spouse, whether the child is of the same or opposite sex, the person:

- (1) engages in sexual contact with the child or causes the child to engage in sexual contact; or
- (2) with intent to arouse or gratify the sexual desire of any person:

(A) exposes the person’s anus or any part of the person’s genitals, knowing the child is present; or

(B) causes the child to expose the child’s anus or any part of the child’s genitals.

(b) It is an affirmative defense to prosecution under this section that the actor:

- (1) was not more than three years older than the victim and of the opposite sex;
- (2) did not use duress, force, or a threat against the victim at the time of the offense; and
- (3) at the time of the offense:

(A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section.

(c) In this section, ‘sexual contact’ means the following acts, if committed with the intent to arouse or gratify the sexual desire of any person:

- (1) any touching by a person, including touching through clothing, of the anus, breast, or any part of the genitals of a child; or
- (2) any touching of any part of the body of a child, including touching through clothing, with the anus, breast, or any part of the genitals of a person.

(d) An offense under Subsection (a)(1) is a felony of the second degree and an offense under Subsection (a)(2) is a felony of the third degree.”



## PUNISHMENT

Indecency with a child involving sexual exposure is a third-degree felony. Such a felony carries a term of imprisonment from 2 to 10 years, plus a fine up to \$10,000. The defendant must register as a sex offender for ten years after being discharged from prison or community supervision. If the defendant has an additional reportable sex offense conviction or deferred adjudication, then lifetime registration is required.

Indecency with a child involving sexual contact is a second-degree felony. Such a felony carries a term of imprisonment from 2 to 20 years, plus a fine up to \$10,000. The defendant must register as a sex offender for life.



## DEFENSE STRATEGY

Consent is not an acceptable defense for offenses involving minors. It is against the law to have sexual contact with a person who is younger than 17 years old, regardless of whether that person allows or encourages the contact.

Believing the complainant was older than they really were is also not an acceptable defense in Texas. For example, if someone states that they are 18 years old and even has an ID showing that they are 18 years old, the defendant has still broken the law if they engage in sexual contact with the child. It is illegal to engage in sexual contact with a person under 17 years old, regardless of whether one has been misled.

Denying that sexual contact occurred (that is, “It never happened”) is a viable defense strategy. This strategy can be used to defend against allegations of younger kids engaging in sexual behavior.



## PROCESS

“I’ve been accused—what happens next?”

Investigations most often begin after the complainant reports the alleged abuse to someone—usually a friend, teacher or parent. That person then calls the police. Police take the child to an assessment center for an interview, which is recorded on video. Police then interview the witness to whom the child made the allegation and may also attempt to interrogate the suspect, or person accused of the abuse.

**AT THIS POINT IN THE INVESTIGATION, IT IS CRUCIAL THAT THE PERSON ACCUSED DOES NOT SPEAK TO POLICE AND HIRES A QUALIFIED ATTORNEY.**

Police are trained to be skilled interrogators. Some officers are so effective that they can coerce false confessions from suspects. To protect the outcome of the investigation, it is important that the person accused does not speak with police. Often, police have already decided to file charges and will attempt to get the person to provide information that hurts his or her chances of being proven innocent.

If the person accused of the abuse hires a defense lawyer immediately, the lawyer can conduct an investigation as well, which will include talking to the police. The lawyer will be able to determine whether cooperation with police can help or hurt the case of the person accused.

Some individuals mistakenly believe that hiring an attorney will make them look guilty. This is untrue and can lead to unfortunate consequences. It is the job of a defense attorney to protect the rights of those accused of committing a crime. Police frequently engage with defense attorneys, and it is not unusual for police to decline charges against suspects when a lawyer convinces them that prosecution is not warranted. Police hire attorneys themselves when they come under investigation, and most officers understand that even innocent people will hire attorneys to guide and counsel them through a process that is both foreign and frightening.

If charges are filed, the defendant will be arrested and taken to jail. In jail, the defendant will often see a magistrate who may set a bond at that time. However, if the jail magistrate does not set bond, the defendant will go to court and the trial judge will set a bond.

# SEXUAL ASSAULT OF A CHILD

Legally speaking, a child is any person younger than 17 years old. It is a crime for a person to engage in sexual penetration with a child 14 to 16 years old.

The child's age determines the difference between aggravated sexual assault of a child and sexual assault of a child. Aggravated sex assault cases involve children under 14 years old. Sexual assaults, also known as "statutory rape," involve children 14 to 16 years old.

Continue reading to learn more about [sexual assault of a child](#).

## LAW

Texas Penal Code [Chapter 22, Section 22.011](#) states in relevant part:

"(a) A person commits an offense if the person: [...] (2) intentionally or knowingly:

- (A) causes the penetration of the anus or sexual organ of a child by any means;
  - (B) causes the penetration of the mouth of a child by the sexual organ of the actor;
  - (C) causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;
  - (D) causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor;
- or
- (E) causes the mouth of a child to contact the anus or sexual organ of another person, including the actor. [...]

(c) In this section:

- (1) 'Child' means a person younger than 17 years of age.
- (2) 'Spouse' means a person who is legally married to another. [...]
- (d) It is a defense to prosecution under Subsection (a)(2) that the conduct consisted of medical care for the child and did not include any contact between the anus or sexual organ of the child and the mouth, anus, or sexual organ of the actor or a third party.
- (e) It is an affirmative defense to prosecution under Subsection (a)(2):
  - (1) that the actor was the spouse of the child at the time of the offense; or
  - (2) that:
    - (A) the actor was not more than three years older than the victim and at the time of the offense:
      - (i) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or
      - (ii) was not a person who under Chapter 62, Code of Criminal Procedure, had a reportable conviction or adjudication for an offense under this section; and
    - (B) the victim:
      - (i) was a child of 14 years of age or older; and
      - (ii) was not a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

(f) An offense under this section is a felony of the second degree, except that an offense under this section is a felony of the first degree if the victim was a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.”



## PUNISHMENT

Minus any complications involving marriage or incest, sexual assault of a child is a second-degree felony. Such a felony carries a term of imprisonment from 2 to 20 years, plus a fine up to \$10,000.

For sexual assault of a child, the defendant must register for life.



## DEFENSE STRATEGY

Consent is not an acceptable defense. It is against the law to have sexual contact with a person who is younger than 17 years old, regardless of whether that person allows or encourages the contact.

Believing the complainant was older than he or she really was is also not an acceptable defense. For example, if a child states that she is 18 years old, and even has an ID showing that she is 18 years old, when she is really 15 years old, the defendant has still broken the law if he has engaged in sexual activity with the child. It is illegal to engage in sexual contact with a person under 17 years old, regardless of whether one has been misled.

Denying that the offense occurred (ie: “It never happened”) is, however, a viable defense strategy.

“Medical care,” which occurs when “the conduct consisted of medical care for the child and did not include any contact between the anus or sexual organ of the child and the mouth, anus, or sexual organ of the actor or a third party,” is also a viable defense strategy.



## PROCESS

Statutory rape investigations most often begin after the complainant reports the alleged abuse to someone—usually a friend, teacher or parent. That person then calls the police. Police take the child to an assessment center to be interviewed, which is recorded on video. Police then interview the witness to whom the child made the allegation, and they will also attempt to interrogate the suspect – or person accused of the abuse.



IT IS CRUCIAL THAT THE PERSON ACCUSED DOES NOT SPEAK TO POLICE AND HIRES A QUALIFIED ATTORNEY.

Police are trained to be skilled interrogators. Some police officers are so effective that they have been able to coerce false confessions from suspects. To protect the outcome of the investigation, it is very important that the person accused does not speak with police. Police have often already decided to file charges against the person accused, and will attempt to get the person to provide information that hurts his or her chances of being proven innocent.

If the person accused of the abuse has been proactive and hired a defense lawyer, the lawyer will conduct an investigation as well, which will include talking to the police. The lawyer will be able to determine whether cooperation with the police can help or hurt the case of the person accused.

Some individuals mistakenly believe that hiring an attorney will make them look guilty. This is untrue, and can lead to unfortunate consequences. It is the primary job of a defense attorney to protect the rights of those accused of committing a crime. Police frequently engage with defense attorneys, and it is not unusual for police to decline charges against suspects whose lawyers convince police that prosecution is not warranted. Police often hire attorneys when they themselves come under investigation. Most police officers understand even innocent people hire attorneys to help guide and counsel them through a process that is both foreign and frightening.

If charges are filed, the defendant is arrested and taken to jail. In jail, the defendant will often see a magistrate who may set a bond at that time. However, if the jail magistrate does not set bond, the defendant will go to court and the trial judge will set a bond.

## AGGRAVATED SEXUAL ASSAULT OF A CHILD

It is a crime for a person to engage in sexual penetration with a child under 14 years old.

The child's age determines the difference between aggravated sexual assault of a child and sexual assault of a child. Aggravated sex assault cases involve children under 14 years old. Sex assaults involve children 14 to 16 years old.

Continue reading to learn more about [aggravated child sex abuse](#).

### LAW

Texas Penal Code [Chapter 22, Section 22.021](#) states in relevant part:

“(a) A person commits an offense:

(1) if the person: [...] (B) intentionally or knowingly:

(i) causes the penetration of the anus or sexual organ of a child by any means;

(ii) causes the penetration of the mouth of a child by the sexual organ of the actor;

(iii) causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;

(iv) causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor;

or

(v) causes the mouth of a child to contact the anus or sexual organ of another person, including the actor; and

(2) if: (B) the victim is younger than 14 years of age. [...]

(e) An offense under this section is a felony of the first degree.

(f) The minimum term of imprisonment for an offense under this section is increased to 25 years if:

(1) the victim of the offense is younger than six years of age at the time the offense is committed; or

(2) the victim of the offense is younger than 14 years of age at the time the offense is committed and the actor commits the offense in a manner described by Subsection (a)(2)(A) [using a deadly weapon, threatening serious bodily injury, death, or kidnapping, or using a 'date rape'-type drug.]”



## PUNISHMENT

Aggravated sexual assault has various punishment ranges, depending on the case. For example, sexual penetration of a child under six years old carries a term of imprisonment of 25 years to life. Sexual penetration of a child between the ages of 6 and 13 years old is a first-degree felony. Such a felony carries a term of imprisonment from 5 to 99 years or life in prison, plus a fine of up to \$10,000.

For aggravated sexual assault, the defendant must register as a sex offender for life



## DEFENSE STRATEGY

Consent is not an acceptable defense. It is illegal to engage in sexual penetration with a child, regardless of whether that child allows or encourages the contact.

Believing the child was older than he or she really was is also not an acceptable defense. For example, if a child states that she is 18 years old, and even has an ID showing that she is 18 years old, but she is really 13 years old, the defendant has still broken the law. It is illegal to engage in sexual penetration with a child, regardless of whether one has been misled.

Like other sex offenses, denying that the offense occurred (ie: “It never happened”) is a viable defense strategy.

“Medical care,” which occurs when “the conduct consisted of medical care for the child and did not include any contact between the anus or sexual organ of the child and the mouth, anus, or sexual organ of the actor or a third party,” may also be a viable defense strategy.



## PROCESS

Investigations most often begin after the complainant reports the alleged abuse to someone—usually a friend, teacher or parent. That person then calls the police. Police take the child to an assessment center for an interview, which is recorded on video. Police then interview the witness to whom the child made the allegation, and they will also attempt to interrogate the suspect, or person accused of the abuse.

**IT IS CRUCIAL THAT THE PERSON ACCUSED DOES NOT SPEAK TO POLICE AND HIRES A QUALIFIED ATTORNEY.**

Police are trained to be skilled interrogators. Some police officers are so effective that they have been able to coerce false confessions from suspects. To protect the outcome of the investigation, it is very important that the person accused does not speak with police. Police have often already decided to file charges against the person accused, and will attempt to get the person to provide information that hurts his chances of being proven innocent.

If the person accused of the abuse has been proactive and hired a defense lawyer, the lawyer will conduct an investigation as well, which will include talking to the police. The lawyer will be able to determine whether cooperation with the police can help, or hurt, the case of the person accused.

Some individuals mistakenly believe that hiring an attorney will make them look guilty. This is untrue, and can lead to unfortunate consequences. It is the job of a defense attorney to protect the rights of those accused of committing a crime. Police frequently engage with defense attorneys, and it is not unusual for police to **DECLINE CHARGES** against suspects whose lawyers convince police that prosecution is not warranted. Police hire attorneys themselves when they come under investigation, and most officers understand that even innocent people hire attorneys to help guide and counsel them through a process that is both foreign and frightening.

If charges are filed, the defendant is arrested and taken to jail. In jail, the defendant will often see a magistrate who may set a bond at that time. However, if the jail magistrate does not set bond, the defendant will go to court and the trial judge will set a bond.

# CONTINUOUS SEXUAL ABUSE OF A CHILD

It is a crime for a person who is at least 17 years old, to commit two or more acts of sexual abuse over a period of 30 days or more, against a child (or children) who is (or are) younger than 14 years old.

Continue reading to learn more about [continuous child sex abuse](#).

## LAW

Texas Penal Code [Chapter 21, Section 21.02](#), states in relevant part:

“(b) A person commits an offense if:

- (1) during a period that is 30 or more days in duration, the person commits two or more acts of sexual abuse, regardless of whether the acts of sexual abuse are committed against one or more victims; and
- (2) at the time of the commission of each of the acts of sexual abuse, the actor is 17 years of age or older and the victim is a child younger than 14 years of age.

(c) For purposes of this section, ‘act of sexual abuse’ means any act that is a violation of one or more of the following penal laws:

- (1) aggravated kidnapping under Section 20.04(a)(4), if the actor committed the offense with the intent to violate or abuse the victim sexually;
- (2) indecency with a child under Section 21.11(a)(1), if the actor committed the offense in a manner other than by touching, including touching through clothing, the breast of a child;
- (3) sexual assault under Section 22.011;
- (4) aggravated sexual assault under Section 22.021 [...]

(d) If a jury is the trier of fact, members of the jury are not required to agree unanimously on which specific acts of sexual abuse were committed by the defendant or the exact date when those acts were committed. The jury must agree unanimously that the defendant, during a period that is 30 or more days in duration, committed two or more acts of sexual abuse.

(e) A defendant may not be convicted in the same criminal action of an offense listed under Subsection (c) the victim of which is the same victim as a victim of the offense alleged under Subsection (b) unless the offense listed in Subsection (c):

- (1) is charged in the alternative;
- (2) occurred outside the period in which the offense alleged under Subsection (b) was committed; or
- (3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (b).

(f) A defendant may not be charged with more than one count under Subsection (b) if all of the specific acts of sexual abuse that are alleged to have been committed are alleged to have been committed against a single victim

(g) It is an affirmative defense to prosecution under this section that the actor:

- (1) was not more than five years older than:
  - (A) the victim of the offense, if the offense is alleged to have been committed against only one victim; or
  - (B) the youngest victim of the offense, if the offense is alleged to have been committed against more than one victim;
- (2) did not use duress, force, or a threat against a victim at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense; and

(3) at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense:  
(A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or  
(B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section or an act of sexual abuse as described by Subsection (c).  
(h) An offense under this section is a felony of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years.”



## PUNISHMENT

Continuous sexual abuse is an aggravated first-degree felony. Such a felony carries a term of imprisonment from 25 to 99 years or life, plus a fine up to \$10,000.

For continuous sexual abuse of a child, the defendant must register as a sex offender for life.



## DEFENSE STRATEGY

Consent is not an acceptable defense. It is illegal to engage in sexual activity with a child, regardless of whether that child allows or encourages the contact.

Believing the child was older than he or she really was is also not an acceptable defense. For example, if a child states that she is 18 years old, and even has an ID showing that she is 18 years old, and she is really 13 years old, the defendant has still broken the law. It is illegal to engage in sexual activity with a child, regardless of whether one has been misled.

Denying that the offense occurred (ie: “It never happened”) is, however, a viable defense strategy.



## PROCESS

Investigations most often begin after the complainant reports the alleged abuse to someone—such as a friend, teacher or parent. That person then calls the police. Police take the child to an assessment center for an interview, which is recorded on video. Police then interview the witness to whom the child made the allegation, and they will also attempt to interrogate the suspect, or person accused of the abuse.

**IT IS CRUCIAL THAT THE PERSON ACCUSED DOES NOT SPEAK TO POLICE AND CHOOSES TO HIRE A QUALIFIED ATTORNEY.**

Police are trained to be skilled interrogators. Some officers are so effective that they have been able to coerce false confessions from suspects. To protect the outcome of the investigation, it is very important that the person accused does not speak with police. Police have often already decided to file charges against the person accused, and will attempt to get the person to provide information that hurts his or her chances of being proven innocent.

If the person accused of the abuse has been proactive and hired a defense lawyer, the lawyer will conduct an investigation as well, which will include talking to the police. The lawyer will be able to determine whether cooperation with the police can help, or hurt, the case of the person accused.

Some individuals mistakenly believe that hiring an attorney will make them look guilty. This is untrue and can lead to unfortunate consequences. It is the job of a defense attorney to protect the rights of those accused of committing a crime. Police frequently engage with defense attorneys, and it is not unusual for police to decline charges against suspects whose lawyers convince police that prosecution is not warranted. Police hire attorneys themselves when they come under investigation, and most officers understand that even innocent people hire attorneys to help guide and counsel them through a process that is both foreign and frightening.

If charges are filed, the defendant is arrested and taken to jail. In jail, the defendant will often see a magistrate who may set a bond at that time. However, if the jail magistrate does not set bond, the defendant will go to court and the trial judge will set a bond.

# IMPROPER STUDENT-TEACHER RELATIONSHIP

It is a crime for an employee, including a teacher, of a private or public elementary, middle or high school to have sexual contact with a student who is enrolled at the school or school district where the employee works.

Someone charged with this crime can also be charged with another crime (e.g., sexual assault of a child).

An “improper relationship” charge is most often brought when the student is of legal age to consent—that is, he or she is at least 17 years old—and consented to the sexual contact. Otherwise, the prosecution would file a charge of indecency with a child, sexual assault of a child or aggravated sexual assault of a child.

Continue reading to learn more about [improper student-teacher relationships](#).

## LAW

Texas Penal Code Chapter 21, Section 21.12, states:

“(a) An employee of a public or private primary or secondary school commits an offense if the employee:

(1) engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works;

(2) holds a certificate or permit issued as provided by Subchapter B, Chapter 21, Education Code, or is a person who is required to be licensed by a state agency as provided by Section 21.003(b), Education Code, and engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person the employee knows is:

(A) enrolled in a public primary or secondary school in the same school district as the school at which the employee works; or

(B) a student participant in an educational activity that is sponsored by a school district or a public or private primary or secondary school, if:

(i) students enrolled in a public or private primary or secondary school are the primary participants in the activity; and

(ii) the employee provides education services to those participants; or

(3) engages in conduct described by Section 33.021, with a person described by Subdivision (1), or a person the employee knows is a person described by Subdivision (2)(A) or (B), regardless of the age of that person.

(b) An offense under this section is a felony of the second degree. (b-1) It is an affirmative defense to prosecution under this section that:

(1) the actor was the spouse of the enrolled person at the time of the offense; or

(2) the actor was not more than three years older than the enrolled person and, at the time of the offense, the actor and the enrolled person were in a relationship that began before the actor’s employment at a public or private primary or secondary school.

(c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.

(d) The name of a person who is enrolled in a public or private primary or secondary school and involved in an improper relationship with an educator as provided by Subsection (a) may not be released to the public and is not public information under Chapter 552, Government Code.”



## PUNISHMENT

This crime is a second-degree felony. Such a felony carries a term of imprisonment from 2 to 20 years, plus a fine up to \$10,000.



## DEFENSE STRATEGY

Consent is not an acceptable defense. It is illegal for an employee of a school to engage in sexual activity with a student enrolled at that school or district, regardless of whether that student is of legal age to consent, or allows or encourages the contact.

Denying that the offense occurred (ie: “It never happened”) is, however, a viable defense strategy.

Other defenses include that the employee was not an employee of the school or district.



## PROCESS

Investigations in these cases usually occur when a third party complains to police about the relationship. For example, the student’s mother finds text messages on his or her phone indicating an improper relationship with a teacher, or the student brags to others about the relationship. Social media, such as Facebook, can suggest an improper relationship, and someone can then report it. Sometimes, police catch the student and teacher in the illegal act.

A school district must complete an investigation into allegations of educator misconduct, even if the defendant resigns from the school district. If the defendant is found to have engaged in improper sexual contact with a student, the State Board for Educator Certification will permanently revoke that educator’s teaching certificate. This school investigation often includes an attempt to interview the defendant.

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Police are trained to be skilled interrogators. Some officers are so effective that they have been able to coerce false confessions from suspects. To protect the outcome of the investigation, it is important that the person accused does not speak with police. Police have often already decided to file charges and will attempt to get the person to provide information that hurts his or her chances of being proven innocent.

If the person accused of the abuse has been proactive and hired a defense lawyer, the lawyer will conduct an investigation as well, which will include talking to the police. The lawyer will be able to determine whether cooperation with the police can



help, or hurt, the case of the person accused.

Some individuals mistakenly believe that hiring an attorney will make them look guilty. This is untrue, and can lead to unfortunate consequences. It is the job of a defense attorney to protect the rights of those accused of committing a crime. Police frequently engage with defense attorneys, and it is not unusual for police to decline charges against suspects whose lawyers convince police that prosecution is not warranted. Police hire attorneys themselves when they come under investigation, and most officers understand that even innocent people hire attorneys to help guide and counsel them through a process that is both foreign and frightening.



## **SPECIAL BOND CONDITIONS**

If charges are filed, the defendant is arrested and taken to jail. In jail, the defendant will often see a magistrate who may set a bond at that time. However, if the jail magistrate does not set bond, the defendant will go to court and the trial judge will set a bond.

A defendant charged with having an improper relationship with a student is legally entitled to a bond in Texas. Unfortunately, given the sensationalized and high-publicity nature of these cases, judges are often inclined to set high bonds so they appear “tough on crime.” Even if a high bond is set initially, the judge will usually lower the bond after any media coverage dies down. If the bond is illegally high, the defendant can ask the appeals court to lower the bond.

# CHILD SEX OFFENSES: PROCEDURE

## BOND CONDITIONS

For most offenses, including [child sex offenses](#), a defendant is entitled to bond pending resolution of the case. Texas Code of Criminal Procedure [Article 17.15](#) states the factors that courts must consider in setting a bond:

- The bail shall be sufficiently high to give reasonable assurance that the undertaking will be complied with.
- The power to require bail is not to be so used as to make it an instrument of oppression.
- The nature of the offense and the circumstances under which it was committed are to be considered.
- The ability to make bail is to be regarded, and proof may be taken upon this point.
- The future safety of a victim of the alleged offense and the community shall be considered.

Texas appeals courts have held that other factors can be considered. These factors include the defendant's work record, community ties, family ties, length of residency, prior criminal history, conformity with any prior bonds and the existence of any outstanding bond.

The trial court cannot just set any bond. Instead, the court must set a reasonable bond. If the bond is unreasonable, then the defendant can appeal. These appeals are "expedited" or sped up, since the defendant is in custody.

Defendants usually hire a bonding company to post the bond. Bonding companies typically want the defendant to pay around ten percent of the total bond amount and put up some collateral to make sure the defendant does not jump bond (e.g., fail to appear in court). For example, if the trial court sets a \$20,000 bond, a bonding company would charge \$2,000, and require the remaining bond amount to be secured by property, such as a house.

A defendant should not just hire any bonding company. Like any business, some bonding companies are reputable and some are not. An experienced defense attorney will be able to advise on which companies are reputable.

In setting a bond, a court may impose certain bond conditions over and above the amount of bond a defendant must post to be released. A defendant charged with a sex offense, for example, may be prohibited from having Internet access, being around children without adult supervision or having contact with the complainant.

Continue reading to learn more about [bail and bonds](#).

# SEX OFFENDER REGISTRATION

An offender who has a reportable sex offense conviction, deferred adjudication or adjudication on or after September 1, 1970, has a duty to register as a sex offender. A defendant therefore has to register for certain offenses, even if the defendant receives deferred adjudication probation and the case is dismissed after he or she completes it.

Sex offender records are open to the public. Any person can view the sex offender database, and see the face, address and offense record of the person charged.

## TRIAL PROCESS

NOT ALL CASES GO TO TRIAL. If an experienced defense attorney is hired to take the case as soon as allegations are made, a case can often be dismissed without charges even being filed. However, if law enforcement move forward with pressing charges and a case does go to trial, the following is a summary of what you can expect from the trial process:

**First**, the prosecutor is allowed to pick a jury. The prosecutor screens potential jurors, looking for those who might be unfavorable to the desired outcome of the prosecution.

**Second**, the prosecutor will give an opening statement outlining what the prosecution believes the evidence will show.

**Third**, the prosecutor will call witnesses. These witnesses will almost always be the complainant, and the person to whom the complainant made the allegation. Additionally, police are called to testify about how they received the call to investigate, what they did, and anything incriminating the defendant may have told them. Sometimes, the complainant's therapist, parents, teachers or friends are called if they can shed light on the circumstances surrounding the alleged abuse. The prosecutor will often call a "child sex abuse" expert from a child advocacy group such as the Children's Assessment Center.

Like the prosecuting attorney, the defense attorney will also question jurors and present the case for the defense, including calling witnesses and experts to testify on behalf of the person accused. To achieve a favorable outcome and move forward with a fair trial, it is essential that the accused person hire an attorney who is experienced with this type of case and has a record of proven success.

Texas Code of Criminal Procedure [Article 38.37](#) allows the prosecution to introduce evidence of certain sex allegations against any child, not just the complainant in the charged case, to be admitted at trial. This means, when there are multiple allegations involving different complainants, they are all admissible at trial. It takes a particularly adept attorney in sex abuse cases to fend off the onslaught of multiple allegations and complainants.

# CHILD SEX OFFENSES: FAQs

**Q: I have been arrested for a sex offense. What should I do?**

A: You should immediately contact an experienced attorney to protect your rights. If you can afford the bond and an attorney, then post the bond as well. If you cannot afford both, then spend your money on an attorney. Bond is a short-term gain; hiring the right attorney carries long-term consequences.

**Q: The police (or CPS) have contacted me and want me to meet to answer some questions. I didn't do anything wrong, and I and don't have anything to hide. Should I do it?**

A: No! These individuals are skilled interrogators. Some police officers are so effective that they can coerce false confessions from suspects. According to the [Innocence Project](#), approximately 30% of people who confessed to police were later found actually innocent. To protect the outcome of the investigation, it is very important that you do not speak with police. If contacted by police or other individuals seeking information relating to the accusations, you should immediately contact an experienced attorney to protect your rights.

**Q: Won't it look bad to police if I hire an attorney if I'm being investigated?**

A: No. The job of a defense attorney is to protect the legal rights of those accused of a crime. Police are used to lawyers representing suspects, and they understand that innocent suspects hire lawyers to protect themselves.

**Q: If it's just the child's word against mine, where's the evidence?**

A: The child's word alone is the evidence, and it is sufficient for charges to be filed and to convict the person accused. That is why it is crucial, since the case hinges on the child's credibility, that the defense lawyer is uniquely qualified to investigate and defend these cases.

**Q: I'm an emotional wreck and can't handle the stress of this situation. What can I do?**

A: The emotional toll of a sex abuse allegation can be overwhelming. Getting to a reputable mental health provider can help you deal with the stress. Over the many years of handling these cases, Neal Davis has developed strong personal relationships with outstanding mental health experts. He can refer you to someone who can help you through this time.

**Q: How long will it take before the case is over?**

A: A sexual abuse case can take anywhere from a few months to two years to resolve. Prosecutors in larger counties (such as Harris County, Montgomery County, Fort Bend County and surrounding counties) have many cases to address, and they prioritize older cases over newer ones. An effective defense investigation often takes time, and includes obtaining the child's school records, the child's mental health records, and interviewing the child and other witnesses. Cases are set for trial depending on their age and if the defendant is in custody. If a defendant is suspect in a newer case and is also out on bond,

his or her case will not be at the front of the line to be tried quickly.

**Q: I hired a lawyer, but I no longer have any confidence in them. What do I do?**

A: It is not unusual for a person to hire a lawyer shortly after being accused of a crime—sometimes because the lawyer is inexpensive—and later make the unfortunate discovery that the lawyer is not adequately qualified to handle a case as serious and complicated as a sex offense case. At this point, there is no question that it is wise to hire a more qualified lawyer to step in and take over the case. This happens frequently. The new lawyer contacts the first lawyer and informs them of the client’s decision. The new lawyer then handles the case from that point forward.

**Q: I’ve talked to several lawyers. How can I feel certain I’m choosing the right one for my case?**

A: This is an important question. You should hire the lawyer you feel is the most qualified and with whom you feel most comfortable. Examine the lawyer’s experience. Has he or she practiced for just a few years, or for many years? Have they handled many of these types of cases? What is their record of success? Also, consider the lawyer’s credentials and their ratings. Are they Board Certified in Criminal Law? Look at the lawyer’s peer ratings. Among the most reputable and prestigious ratings are an AV Rated by Martindale Hubbell and admission into the Best Lawyers in America. Client reviews can also be helpful. Do NOT hire an attorney based on price alone. Hiring an attorney because of a low price can cost you your freedom, your career, your family relationships and your reputation.

Continue reading: [Hiring a Sexual Assault Defense Lawyer](#)

**Q: How much will this cost?**

A: The short answer to “how much is the cost” may not be satisfying: it depends. Many factors, from the experience, qualifications and ability of the criminal lawyer, to the charges and the complexity of the case, determine the fee. Some cases may, aside from attorney fees, require expenses for experts and investigation.

The custom and practice of Texas criminal attorneys is to generally charge a flat fee. We typically charge one fee to handle the case up to the point of it being set for trial, then an additional fee if the case is set for trial. The client is responsible for any expenses, such as experts, and any bond.

The benefit of a flat fee is that clients know, at the outset, how much to pay an attorney, and there will not be any surprise monthly billing statements based on hours spent.

**Q: What can you guarantee?**

A: No attorney can ethically guarantee any outcome, but we can guarantee we will do everything we can to achieve the best possible outcome. While each case is different and involves its own unique set of facts, we have a proven track record of obtaining extraordinary results in all types of cases. We are proud of our record of dismissals in misdemeanors and felonies in state and federal court.